IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

REGINALD T. GILBERTBEY,
Plaintiff,

v.

UNITED STATES OF AMERICA, et al.
Defendants.

CIVIL ACTION NO. 05-69E

Judge Sean J. McLaughlin
Magistrate Judge Susan Paradise Baxter

PLAINTIFFS' MOTION FOR ENLARGEMENT OF TIME TO FILE A RESPONSE TO DEFENDANTS' MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION FOR FOR AN EXTENSION OF TIME.

AND NOW, come plaintiff, REGINALD THADDEUS GILBERTBEY, pro se seeking that this honorable court grant him either an Enlargement of time in order to file a response to the above styled and denoted motion of defendants' in accordance to Fed. Rules Civ. Procedure **Rule 6(b)**, or other applicable rules grant a extention of time of at least (60) days from the date of its order in response to this motion.

Plaintiff received this courts' order by the honorable Chief United States Magistrate Judge Hon. Susan Paradise Baxter electronically dated "7/12/2006" from prison authorities on or about 7-14-06 at 3:30 PM, mandating a response in time of "July 28, 2006" also granting "Plaintiff may also amend the complaint to cure any procedural defects." to the above styled motion(s) from the defendants.

To date plaintiff has never received defendant's motion(s) motion ascribed and referenced in the honorable Magistrate's order of July 12, 2006. Therefore plaintiff has no documents by which to formulate a response.

FILED '06 AUG -3 A10:24 CLERK U.S. DISTRICT COURT

Furthermore plaintiff heretofore has attached a first-phase administrative remedy complaint (BP-8) regarding the neglect, unexcusable and willful delay, and denial of defendant's legal mail that was forwarded from the office of the "U.S. Department of Justice, United States Attorney, Western District of Pennsylvania" in Pittsburgh, Pennsylvania, which is dated the "28th day of April, 2006", titled "DEFENDANTS' MOTION TO EXTEND TIME FOR FILING A RESPONSIVE PLEADING AND/OR DISPOSITIVE MOTION". Although the mailing envelope is marked clearly specifying a government agency, which should be treated as "LEGAL MAIL" (Just as all mail from the Chief Magistrate Judge Hon. Susan Paradise Baxter has been, with exceptions.), it was not. Said mail was opened outside of plaintiffs' presence and delivered by a housing unit correctional officer approximately (48) fourty-eight days after it was postmarked on May 1, 2006, and was not delivered until June 18, 2006 on a Sunday morning during a institutional security "lockdown".

Plaintiff reasonably believes that any subsequent motion(s) filed after the motion to extend time for filing may also be somewhere in authorities possession, lost, or destroyed.

Plaintiff hereby humbly request that the court orders' that a copy of the motion(s) filed "MOTION TO DISMISS, OR, IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGEMENT (Doc.#27)" be forwarded directly to plaintiff according to **28 CFR §540.18 thru §540.19** regarding "Special/Legal Mail" procedures (Please see exhibits 1, 2, and 3 presenting all documents referenced on this page.)

which mandates specific procedures by prison authorities that will require a chain of responsible parties and signatures up receipt of said legal document.

Further plaintiff humbly ask that the court provide a court order that all documents forwarded from the United States Attorneys office as legal counsel for the defendants' be forwarded in accordance to legal procedures required by **28 CFR §540.18 thru §540.19**, which would make it more difficult for excuses, delays, destruction, and a repeat of current problems. with plaintiff receiving any legal documents from the court, the court clerk, and/or defendants' attorney.

Furthmore concerning plaintiff's need for a enlargement/ extension of time to file further responses and motions:

1. Plaintiff is currently housed in a greater-security institution (United States Penitentiary) than when this civil action was originally file (Plaintiff was at a Federal Correctional Institution) due to retaliation as a consequence of filing this civil action. Therefore, at this security level there is less time and access to the law library and its materials.

2. Given the security level of USP Allenwood frequently there are institutional "lockdowns" which are a daily occurance for reasons of institutional distrubances, security equipment malfunctions, staff shortages, and weather conditions (i.e. fog, lightening, etc.) as well as other administrative reasons has and will result in the denial of access too the law library and materials.

3. Additionally, plaintiff by policy must maintain a work detail assignment, which currently assigned to the Food Service department consumes approximately (10) ten hours seven days a week.
4. Plaintiff is also involved in other institutional programs from Monday thru Friday (i.e. "CHOICES", "CODE", Parenting, anger management, and vocational courses.) which prevent access to the law library daily.
5. Also this prisons' law library is completely shut down/closed on Saturday evenings, holidays, Sundays, and throughout the week for other staff reasons which are most often not scheduled.

Given all of the aforementioned causes and reasons plaintiff is seeking at least a (60) day enlargement of time or in the alternative a extension of time in order to:

(1) Receive a copy of the motion which defendants' have filed too the court titled (According to the most recent courts' order) "Motion to Dismiss, or, in the Alternative, Motion for Summary Judgement (Doc#27), and brief in support thereof";

(2)As plaintiff is in fact a pro se litigant under the advere authority of defendants' and as a consequence suffers multifaceted obstacles in attempt to perfect and continue to follow through with this action in retaliation, and both psychological and physical reprocussions; in additional to lack of knowledge regarding rules and procedures of civil litigation.

WHEREFORE, plaintiff, pro se respectfully request that this honorable Court grant his motion and issue an Order extending by at least (60) sixty days, or until September 29, 2006, the time in which plaintiff may file his responsive pleading and/or also amend the complaint to cure any procedural defects. Additionally, plaintiff humbly request that the Court enter an Order for a copy of defendants' motion(s) and briefs in support may be forwarded too him, according to the rules and procedure of **28 CFR §540.18 thru §540.19** so that he may respond accordingly to such (please see **Exhibit 3**).

Dated: 26 July, 2006

Respectfully submitted,

[signature]

REGINALD T. GILBERTBEY, pro se
Reg. No. 03854-078
United States Penitentiary Allenwood
P.O. Box 3000
White Deer, Pennsylvania 17887

CERTIFICATE OF SERVICE

I, REGINALD THADDEUS GILBERTBEY, do hereby certify under the penalty of perjury 28 USC §1746 that a true and correct copy of above styled motion, "PLAINTIFFS' MOTION FOR ENLARGEMENT TO TIME TO FILE A RESPONSE TO DEFENDANTS' MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION FOR AN EXTENSION OF TIME". I have served, by first class, pre-paid U.S. postage through tendering such with federal Bureau Of Prisons authorities to post by mail to the following:

CLERK OF THE COURT for
the United States District Court
Western District of Pensylvania
Attention: Chief U.S. Magistrate Judge
Hon. Susan Paradise Baxter
17 South Park Row, Room A280
Erie, Pa. 16501

MARY BETH BUCHANAN, U.S. Attorney
Attention: Jessica L. Smolar
Assistant U.S. Attorney
Western District of PA
700 Grant Street, Ste. 4000
Pittsburgh, PA. 15219

Dated: 26 July, 2006

[signature]

REGINALD T. GILBERTBEY, pro se

file